United Nations CEDAW/C/BLR/CO/7/Add.1

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
23 January 2014
English, French, Russian and Spanish only
Original: Russian

Committee on the Elimination of Discrimination against Women

Concluding observations on the seventh periodic report of Belarus

Addendum

Information provided by Belarus in follow-up to the concluding observations*

[Date received: 6 November 2013]

* The present document is being issued without formal editing.

14-21481 (E) 110314 130314

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Information on the steps taken to implement the recommendation contained in paragraph 20 of the concluding observations of the Committee on the Elimination of Discrimination against Women in relation to the seventh periodic report of Belarus on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women

(a) *Intensify its efforts to prevent and prosecute acts of domestic and sexual violence against women and impose appropriate penalties commensurate with the gravity of the crime on perpetrators rather than administrative fines which may have an adverse impact on the financial situation of victims themselves*;

The Criminal Code establishes the following criminal penalties:

- Restriction of liberty for up to five years or imprisonment for one to five years for inducement, by means of cruel or systematically degrading treatment, to commit or attempt to commit suicide, including in respect of a person who is materially or otherwise dependent on the perpetrator (article 145);
- Community service, a fine, punitive work for up to one year or detention for up to three months for the intentional infliction of minor bodily harm causing short-term damage to health (article 153);
- Restriction of liberty for one to three years or imprisonment for one to five years for the intentional infliction of prolonged pain or anguish in a manner causing particular physical and mental suffering to the victim, or systematic battery or torture of a woman whom the perpetrator knows to be pregnant or a minor or of a person in a position of defencelessness or dependency (article 154);
- Restriction of liberty for up to four years or imprisonment for three to seven years for sexual intercourse against the will of the victim using violence or the threat of violence against the woman or her loved ones or taking advantage of the victim's defencelessness (rape); – Imprisonment for 5 to 13 years for rape committed repeatedly or by a group of persons or rape of a female known to be a minor; – Imprisonment for 8 to 15 years for rape of a female known to be a child or rape resulting through negligence in the death of the victim or causing grievous bodily harm, infection with HIV or other serious consequences (article 166);
- Restriction of liberty for up to four years or imprisonment for three to seven years for homosexual, lesbian or other acts of a sexual nature committed against the will of the victim using violence or the threat of violence or taking advantage of the victim's defencelessness; – Imprisonment for 5 to 13 years for the same acts committed repeatedly, by a person who has previously committed rape, by a group of persons or against a person known to be a minor; – Imprisonment for 8 to 15 years for the same acts committed against a person known to be a child or resulting through negligence in the death of the victim or causing grievous bodily harm, infection with HIV or other serious consequences (article 167);
- Restriction of liberty for up to three years or imprisonment for the same period for forcing a person into sexual intercourse or homosexual, lesbian or other acts of a sexual nature by means of blackmail, threatening to destroy, damage or remove property or taking advantage of the victim's subordinate position or

dependency, material or otherwise; – Imprisonment for three to six years for the same acts committed against a person known to be a minor (article 170);

– A fine, punitive work for up to one year or detention for up to six months for threatening to kill, cause grievous bodily harm to or destroy the property of a person by dangerous means, if there is reason to fear that the threat will be carried out (article 186).

The criminal penalties established in the Criminal Code are not overly lenient and allow for the imposition of different penalties depending on the particular perpetrator and circumstances of the offence.

(b) *Expedite the adoption of the draft Law on Prevention of Domestic Violence, including specific rights for victims to assistance, protection and compensation*;

The National Plan of Action for Gender Equality in the Republic of Belarus for 2011-2015 includes the consideration of the advisability of drawing up a draft law of the Republic of Belarus for combating domestic violence.

This issue was considered in 2012 at a meeting of the National Council on Gender Policy of the Council of Ministers of the Republic of Belarus, a standing body on public policies for gender equality, which carries out policy coordination and develops concerted actions for ensuring the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.

That meeting led to the adoption of a decision on the need to improve legislation for the prevention of domestic violence and the provision of assistance to victims of such violence by amending a number of laws and considering the advisability of drawing up a draft law for combating domestic violence, after reviewing the implementation of existing legislative amendments and additions.

Since the Committee's consideration of the seventh periodic report, amendments and additions have been made to the following laws.

(1) Amendments and additions to the Code of Administrative Offences entered into force on 28 August 2013. Article 9.1, "Intentional infliction of bodily harm or other violent acts", has been supplemented by a paragraph 2, which establishes administrative penalties (a fine of up to 10 base units or detention) for battery not resulting in bodily harm and for the intentional infliction of pain or physical or mental suffering on a close relative or family member, if these actions do not involve a crime.

The establishment of administrative liability for the commission of violent acts has made it possible to take effective measures under administrative law against persons who commit offences in the family and domestic sphere. The commission of such an offence is also a prejudicial factor in cases of criminally punishable torture.

(2) In 2013, the lower house of Parliament adopted, on first reading, a new version of the Act on the principles of actions to prevent offences, which reflects the provisions aimed at preventing domestic violence.

Article 1 includes definitions of the following concepts:

"Domestic violence" means intentional acts of a physical, psychological or sexual nature that are committed by one family member against another family member, violating his rights, freedoms and legitimate interests and inflicting physical and/or mental suffering;

"Family members" means a person's close relatives, other relatives, dependants who are unable to work and other individuals residing and forming a common household with him or her.

Article 14 deals with measures for the prevention of domestic violence:

Internal affairs agencies, in cooperation with educational institutions; health-care organizations; labour, employment and social protection entities; and housing associations are responsible for taking steps to identify domestic violence and the individuals who perpetrate such acts;

Internal affairs agencies and public prosecutors' offices, within the limits of their jurisdiction, are responsible for preparing materials for decision-making, in accordance with established procedure, on the administrative or criminal liability of individuals who have committed domestic violence and for ensuring that victims of such violence are informed of their right to institute criminal proceedings or to report an administrative offence.

This law has been supplemented by a new article 31, "Order of protection", under which a series of restrictions may be imposed on perpetrators of domestic violence, with the aim of protecting the victims of such violence. Under an order of protection, a perpetrator of domestic violence is prohibited from attempting to locate, visit or contact the victim, including by telephone or Internet. The order of protection, with the written consent of the victim (if not a minor), requires the offender to temporarily move out of the residence shared with the victim and to refrain from disposing of common property.

The Act includes a new version of article 28 setting out a framework under which persons who have committed domestic violence are placed on a watch list.

(3) In January 2013, a new version of the Social Services Act entered into force. This Act introduces a system of State social service procurement and the provision of State financial assistance to civil society organizations offering assistance, social and rehabilitation services to persons in difficult circumstances, including victims of domestic violence.

(c) *Amend its Criminal Code and Criminal Procedure Code in order to specifically criminalize domestic violence and marital rape, introduce ex officio prosecution for rape, and ensure that the definition of rape covers any non-consensual sexual act*;

Domestic violence and marital rape are punishable under criminal law.

For these purposes, the Criminal Code contains the following articles, which cover the broad range of crimes recorded in the domestic and family sphere:

Article 145, "Inducement to suicide" (inducement, by means of cruel or systematically degrading treatment, to commit or attempt to commit suicide, including in respect of a person who is materially or otherwise dependent on the perpetrator);

Article 153, "Intentional infliction of minor bodily harm" (intentional infliction of minor bodily harm, i.e. harm causing short-term damage to health or slight permanent disability);

Article 154, "Torture" (intentional infliction of prolonged pain or anguish in a manner causing particular physical and mental suffering to the victim, or systematic battery or torture of a woman whom the perpetrator knows to be pregnant or a minor or of a person in a position of defencelessness or dependency);

Article 166, "Rape" (sexual intercourse against the will of the victim using violence or the threat of violence against the woman or her loved ones or taking advantage of the victim's defencelessness, including rape committed repeatedly, rape by a group of persons, rape of a female known to be a child and rape resulting through negligence in the death of the victim or causing grievous bodily harm, infection with HIV or other serious consequences);

Article 167, "Violent acts of a sexual nature" (homosexual, lesbian or other acts of a sexual nature committed against the will of the victim using violence or the threat of violence or taking advantage of the victim's defencelessness, including such acts committed by a group of persons, by a person who has previously committed rape or against a person known to be a minor, or resulting through negligence in the death of the victim or causing grievous bodily harm, infection with HIV or other serious consequences);

Article 168, "Sexual intercourse and other acts of a sexual nature with a person under 16 years of age" (sexual intercourse or homosexual, lesbian or other acts of a sexual nature committed by a person who has attained 18 years of age with a person known to be under 16 years of age, in the absence of the offences specified in articles 166 and 167);

Article 169, "Lewd acts" (lewd acts committed by a person who has attained 18 years of age against a person known to be under 16 years of age, in the absence of the offences specified in articles 166, 167 and 168, including those committed using violence or the threat of violence);

Article 186, "Threats to kill, cause grievous bodily harm or destroy property" (threats to kill, cause grievous bodily harm to or destroy the property of a person by dangerous means, if there is reason to fear that the threat will be carried out).

Rape is considered a crime and may be prosecuted in the absence of a complaint by the victim. Article 26, paragraph 5, of the Criminal Procedure Code empowers the public prosecutor to institute criminal proceedings in the absence of a complaint by the victim, if the latter is in a position of dependency or is otherwise unable to protect his or her interests. All cases brought by the Prosecutor are submitted for preliminary investigation. In such cases, the conduct of a preliminary investigation does not entail the discontinuation of reconciliation processes between the victim and the accused.

(d) *Provide mandatory training to judges, prosecutors and the police on the strict application of legal provisions dealing with violence against women and train police officers on standardized procedures to deal with women victims of violence*;

Judges, prosecutors, lawyers and law enforcement personnel are required to undergo training on domestic violence and violence against women, among other topics, as part of their professional training and development.

For example, in 2013, the Ministry of Internal Affairs organized and conducted seminars and training sessions for district police inspectors on the prevention of domestic and family violence (on 30 April 2013 in Vitebsk, on 2 May 2013 in Zhlobin and on 28 May 2013 in Grodno).

In addition, under the international technical assistance project "Developing national capacity to counteract domestic violence in Belarus", carried out by the Ministry of Internal Affairs of Belarus in cooperation with the United Nations Population Fund (UNFPA), training seminars for law enforcement personnel were held from 16 to 19 July 2013 in Brest and Kobrin on the topic "Role of law enforcement in the prevention of domestic violence".

(e) *Encourage women to report incidents of domestic and sexual violence, by de-stigmatizing victims and raising awareness about the criminal nature of such acts*;

Law enforcement personnel continually raise awareness among victims of domestic and sexual violence on the procedures for instituting criminal proceedings and on the availability of psychological, legal, material and other types of assistance (temporary shelter, etc.) at territorial social assistance centres or through the nationwide telephone hotline.

In addition, when militia officers respond to incidents of domestic and family conflict, they provide the victims and perpetrators of violence with written guidelines containing information on the procedures in place for such cases, on State and civil-society victim assistance organizations and on liability for wrongful acts.

(f) *Provide adequate assistance and protection to women victims of violence by strengthening the capacity of crisis rooms in territorial centres for social assistance, increasing the number of State-run shelters for battered women and girls, enhancing cooperation with and funding for NGOs providing shelter and rehabilitation to victims, and reinforcing rehabilitation programmes for alcoholics*;

The system of labour, employment and social protection entities currently operates 151 territorial social assistance centres in Belarus, including 141 social adaptation and rehabilitation divisions, whose activities are aimed at rehabilitating persons in difficult circumstances, including victims of domestic violence, sexual violence or human trafficking. There are also two urban social assistance centres for families and children in Minsk and Gomel.

In order to provide victims with temporary accommodation, including beds and food, a network of "crisis rooms" (shelters) is being developed. As at 1 July 2013, there were 53 "crisis rooms" in the Republic (as at 1 January 2011, there were only 31). In 2013 assistance was provided to 85 individuals in difficult circumstances.

In accordance with the list of free universal social services offered by State social service agencies, which was approved by Council of Ministers decision No. 1218, "Certain issues concerning the provision of social services", victims of trafficking in persons or of violence, terrorist acts or natural or man-made disasters are provided free of charge with shelter services (bedding and a place to sleep, personal hygiene items, food and drink).

Under the new version of the Social Services Act, in order to harness the potential of the non-governmental sector and broaden collaboration between

government and civil-society actors on social services for persons in difficult circumstances, a system of State social service procurement has been introduced.

Under this system, legal entities and individual entrepreneurs are involved in the delivery of social services and the implementation of social projects. For this purpose, they are provided with State subsidies from local budgets for the provision of social services and the financing of social services procurement.

With a view to enhancing cooperation with civil-society organizations, strengthening the potential of "crisis rooms" and providing assistance to victims of domestic violence, the Ministry of Labour and Social Welfare, in collaboration with UNFPA, is carrying out the international technical assistance project "Developing national capacity to counteract domestic violence in Belarus in the context of increased gender equality".

Under this UNFPA-supported project, "crisis rooms" have been set up in pilot regions (Brest, Kobrin and Kamenets); the newsletter "Gender equality" has been published since December 2012; the public information campaign "Kitchens without violence" has been carried out since November 2012 to publicize the toll-free hotline for victims of domestic violence (since the launch of the campaign, the number of calls has doubled, averaging 9 per day and 266 per month, with over 2,000 calls received since August 2013); various activities have been carried out, including the seminar "Ensuring gender equality and combating domestic violence: legislative framework and international experience" (May 2013), the training workshop "A power and control model: working with perpetrators and supporting victims of domestic violence" (June 2013) and the seminar "Highlighting gender (in)equality and domestic violence issues in the media" (June 2013); and a training course for journalism students is being developed with the participation of international and national experts.

(g) *Collect statistical data on domestic and sexual violence disaggregated by sex, age and relationship between the victim and perpetrator.*

Statistics show that an absolute majority of domestic violence offences in Belarus are perpetrated by men and their victims are usually women, children or older persons. Over a nine-month period in 2013, the authorities carried out 1,518 preliminary investigations of crimes committed in the sphere of family relations; of these crimes, 1,341 (88.3 per cent) were committed by men and 177 (7.7 per cent) were committed by women.